

**(2013) 09 P&H CK 0087**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Criminal W.P. No. 1540 of 2013 (O and M)

Pappu @ Anand

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision :** 18-09-2013

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 — Section 10(2), 3, 3(1)(d), 3(d)  
Penal Code, 1860 (IPC) — Section 304

**Citation :** (2013) 09 P&H CK 0087

**Hon'ble Judges :** Daya Chaudhary, J

**Bench :** Single Bench

**Advocate :** V.S. Rana, for the Appellant; Pardeep Virk, DAG Haryana, for the Respondent

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## **Judgement**

Daya Chaudhary, J.

CRL. MISC. NO. W-561 OF 2013

1. Application is allowed as prayed for.

CRL. MISC. NO. W-562 OF 2013

This is an application for placing on record affidavit of petitioner's father.

2. Application is allowed and affidavit of petitioner's father is taken on record.

CRL. W.P. NO. 1540 OF 2013

3. The present petition has been filed under Article 226 of Constitution of India for issuance of directions to the respondents to release the petitioner on parole for agriculture purposes as family of the petitioner is dependent upon the agriculture work and parole has been rejected by the District Magistrate, Bhiwani without giving any sufficient reason.

4. Learned counsel for the petitioner contends that the petitioner was convicted for an offence u/s 304 part II IPC and was sentenced to five years. The conduct of the petitioner remained good in the jail and there was no complaint against him. The petitioner was granted bail during pendency of trial but he never misused that concession. Learned counsel further submits that the petitioner is not a habitual offender as no other case is pending against him. The petitioner is having two minor children who are in the age group of 10 to 15 years and there is no other male member to look after the agriculture work except his wife. Learned counsel also submits that co-accused of petitioner, namely, Sheel @ Satya Kumar has approached this Court by way of filing Crl. W.P. No. 1168 of 2013, which was allowed and parole was granted to him vide order dated 30.7.2013. Learned counsel submits that District Magistrate, Bhiwani has clearly mentioned in his order that the petitioner is having share in total land of seven acres, which is in the name of his father. It is also the contention of learned counsel that claim of the petitioner has been rejected only on the basis of police report, whereas, nothing has been mentioned as to how he is going to misuse that concession.

5. Learned counsel for the respondent-State opposes the submissions made by learned counsel for the petitioner on the ground that there can be any untoward incident in the village if the petitioner is released on parole.

6. Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the impugned order, vide which, prayer for grant of parole has been declined.

7. As per provisions as contained in Section 3 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, there are certain grounds on which temporary release of prisoner can be allowed, which are reproduced as under:-

3. Temporary release of prisoners on certain grounds.--(1) The State Government may, in consultation with the District Magistrate or any other officer appointed in this behalf, by notification in the official Gazette and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-Section (2), any prisoner, if the State Government is satisfied that-

(a) a member of the prisoner's family had died or is seriously ill or the prisoner himself is seriously ill; or

(b) the marriage of prisoner himself, his son, daughter, grandson, granddaughter, brother, sister, sister's son or daughter is to be celebrated; or

(c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or his father's undivided land actually in possession of the prisoner; or

(d) it is desirable to do so for any other sufficient cause.

8. As per Section 3(d), temporary release can be for any "sufficient cause" and "sufficient cause" has been defined under Rule 8 of the Haryana Good Conduct Prisoners (Temporary Release) Rules 2007, which is reproduced as under:-

8. Sufficient cause.[sections 3(1)(d) and 10(2)

(d)].--- u/s 3(1)(d) "sufficient cause" may be considered from amongst the following reasons, namely:-

(i) admission in school/college/professional institutions of the dependents of the convict;

(ii) medically scheduled delivery of wife of the convict;

(iii) house repairs/new construction of house owned by the convict. Parole for house repair shall be granted only once in three years;

(iv) marriage of prisoner's brother's son or daughter to be celebrated in case his brother is not alive.

9. Keeping in view the facts as mentioned above and also the ground that the petitioner is to cultivate the land of his share; there is no other male member in the family; as the family of the petitioner is totally dependent upon the agriculture income only; children of the petitioner are minor and only his wife is to look after the household work, the present petition is allowed. The petitioner is granted temporary release for a period of two weeks w.e.f. 22.9.2013 to 6.10.2013 subject to furnishing surety to the satisfaction of Jail Authorities. It is also ordered that after expiry of above said period, the petitioner shall surrender before the jail authorities on 7.10.2013.